

REMARKS

In response to the Office Action mailed February 11, 2008, claim 1 has been amended. Claims 4-7 were previously withdrawn, and claims 13, 14, 24, 26-84 were previously canceled. Thus, claims 1-3, 8-12, 15-23, 25, and 85 are presented for examination.

35 U.S.C. § 112

Claims 1-3, 8-12, 15-23, 25, and 85 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement and under 35 U.S.C. § 112, second paragraph as being incomplete for omitting essential elements. Although Applicant does not concede that those claims fail to comply with the written description requirement or that the metes and bounds of those claims were insufficiently clear, claim 1 has been amended.

35 U.S.C. § 102

Claims 1-3, 8-10, 12, 15-23, 25, and 85 were rejected under 35 U.S.C. § 102(b) as being anticipated by Pacetti et al. (US 6,355,058).

Pacetti fails to disclose a non-woven soft tissue implant including a biocompatible film including “one or more films of biaxially oriented polymer or copolymer,” as recited in independent claim 1. Pacetti discloses a stent coated with a binder coating 16 that consists of a binder and particles of radiopaque materials. (See, e.g., Pacetti, col. 5, lines 16-32). Pacetti’s binder “may consist of synthetic polymers or biopolymers.” (Id., col. 4, lines 29-30). The Examiner contends that Pacetti’s binder coating 16 is a biocompatible film and that “there are an infinite number of axes for which this film is oriented . . .,” (Office Action, page 4, emphasis added). However, Applicant respectfully notes that independent claim 1 recites no such orientation of the film. Rather, claim 1 recites biaxially oriented polymer or copolymer. Pacetti does not disclose any orientation of his polymers or biopolymers, much less a biaxial orientation. This is not a trivial distinction. As noted in Applicant’s specification, biaxial orientation of the polymer or copolymer results in improved mechanical properties of the film. (See, e.g., US

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2004/0059356, ¶¶ [0050], [0077]). Accordingly, Pacetti does not anticipate claims 1-3, 8-10, 12, 15-23, 25, and 85.

Allowable Subject Matter

Applicant thanks the Examiner for indicating that claim 11 would be allowable if rewritten to overcome the rejection under 35 U.S.C. § 112, second paragraph and to include all of the limitations of the base claim and any intervening claims.

Conclusion

In view of the present amendment and the foregoing discussion, Applicant requests reconsideration and withdrawal of the rejections of claims 1-3, 8-10, 12, 15-23, 25, and 85.

Any circumstance in which the Applicants have (a) addressed certain comments of the Examiner does not mean that the Applicants concede other comments of the Examiner, (b) made arguments for the patentability of some claims does not mean that there are not other good reasons for patentability of those claims and other claims, or (c) amended or canceled a claim does not mean that the Applicants concede any of the Examiner's positions with respect to that claim or other claims.

Filed herewith is a Petition for Extension of Time. Please apply any other charges or credits to deposit account 06-1050, referencing Attorney Docket No. 14188-0002001.

Respectfully submitted,

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